

DATE

Stephen Morris, M.D.
4244 Highway 1
Raceland, Louisiana 70394

Re: **Louisiana Board of Ethics**
Docket No. 2021-068

Dear Dr. Morris,

The Louisiana Board of Ethics, at its meeting on March 5, 2021, considered your request for an advisory opinion as to whether the Code of Governmental Ethics ("Code") would prohibit you from leasing office space to Ochsner Clinic Foundation ("Ochsner").

FACTS PROVIDED

The Lafourche Parish Hospital Service District No. 2 ("District") was created by Lafourche Parish Ordinance No. 34-157, pursuant to the authority granted by La. R.S. 46:1051, *et seq.*, governing the creation of Hospital Service Districts. The District has a contractual agreement with Ochsner to operate the Ochsner St. Anne Hospital in Raceland. Lafourche Parish has a population of 96,318 according to the most recent census information.

You currently serve as an appointed member of the District Board pursuant to La. R.S. 46:1053. Ochsner has approached you about the possibility of leasing office space from your medical office located at 162 Acadia Park Drive in Raceland. Your medical office is adjacent to the Ochsner St. Anne Hospital complex.

LAW

Generally, La. R.S. 42:111C(2)(d) provides that no public servant shall receive anything of economic value for, or in consideration of services rendered, or to be rendered, to or for any person who has, or is seeking to obtain, a contractual, business, or financial relationship with the public servant's agency.

However, La. R.S. 42:1123(18)(a) provides the following exception:

A licensed physician who is a member of a board of commissioners for any hospital service district authorized by Chapter 10 of Title 46 of the Louisiana Revised Statutes of 1950 located within a parish which has a population of one hundred twenty-five thousand or less from contracting with the hospital over which the board exercises jurisdiction, **from subcontracting with another provider who contracts with such hospital**, or from owning an interest in an entity that contracts with such hospital. **However, such licensed physician shall recuse himself from**

participating in any transaction before the board relating to any contracts entered into by him, or by a provider with which he subcontracts, or by any entity in which he owns an interest, and permitted by this Paragraph.

La. R.S. 42:1112B: No public servant, except as provided in R.S. 42:1120, shall participate in a transaction involving the governmental entity in which, to his actual knowledge, any of the following persons has a substantial economic interest:

(5) Any person who is a party to an existing contract with such public servant, or with any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, or who owes any thing of economic value to such public servant, or to any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, and who by reason thereof is in a position to affect directly the economic interests of such public servant.

La. R.S. 42:1120.4 provides the following recusal provisions:

A. If any appointed member of a board or commission in the discharge of a duty or responsibility of his office or position, would be required to vote on a matter which vote would be a violation of R.S. 42:1112, he shall recuse himself from voting.

B. An appointed member of a board or commission who recuses himself from voting pursuant to this Section shall be prohibited from participating in discussion and debate concerning the matter.

CONCLUSION

The Board concluded, and instructed me to inform you, that the Code does not prohibit you from entering into a lease agreement with Ochsner since you meet the requirements for the exception contained in Section 1123(18)(a). The Board cautioned that you are prohibited from participating in any discussion, debate, or vote on any transaction that may come before the District Board in which Ochsner has a substantial economic interest.

Additionally, pursuant to La. R.S. 42:1114, you will be required to file with the Board an annual disclosure statement by May 15th of each calendar year disclosing certain financial information related to your lease agreement with Ochsner. Disclosure Form 405 can be found at ethics.la.gov under Disclosure Forms. A copy has been enclosed for your reference.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Act, and conflict of interest provisions in the gaming laws.

If you have any questions, please contact me at (800)842-6630 or (225)219-5600.

Sincerely,

LOUISIANA BOARD OF ETHICS

David M. Bordelon
For the Board

DISCLAIMER
This is a draft opinion and it is **NOT** an opinion of the Louisiana Board of Ethics.
No party may rely on the facts or conclusions. The analysis and conclusions herein are provided for discussion purposes only, and are subject to change or revision at the meeting of the Board of Ethics at which this matter is considered.